

EXTRAS

cc: Victor K. Kisim, Director
Office of Drinkingwater

RE: Delegation of Authority for major/minor DBC Aquifer Exemptions

SUMMARY

The work group concurs with the definition for major and minor Aquifer exemptions proposed in your April 14, 1993 memo, but not with the concurrence procedure for minor exemptions. The concurrence procedure does not recognize the fact that minor aquifer exemptions are technical decisions very closely related to the permit process which require familiarity with local conditions.

The workgroup recommends that the authority for exemptions virtually be delegated to the Region. Informative copies of the Region approval letters will be sent to Headquarters for your files. The Regional actions should be subject to a very close examination during the yearly program review.

Discussion - Major Exemptions

This memo is a result of the April 21, 1993 meeting of the delegations workgroup. The April 19, 1993 memo, outlining a proposed procedure for approving revisions to the exempted aquifer designation in a state was

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viewed. There was unanimous concurrence with the proposed definition of major exemptions. There were several comments on the proposed procedure for handling major exemptions.

1. Since Headquarters is responsible for making the decision on approval of a major exemption, they should take the lead on holding the public hearing. By providing the hearing officer, Headquarters will be assured that their staff who are responsible for making final recommendations have total understanding of the situation. This should minimize the possibility of having to go back to the State for more information after the public hearing has been held.
2. The office of Drinking Water should assign a technical staff person to review all of the available technical data concurrent with the Regional review. This should include, if possible, a site visit.
3. The final response to comments and technical analysis should be assembled by the office of Drinking Water since they have the lead role in the approval. Regional comments should be issued as the back page of the approval package.

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Discussion - Minor Exemptions

Although the workgroup concurs with the minor aquifer exemptions in initial, we do not agree with the concurrence procedure for approval of or exemptions. The decision to grant an aquifer exemption is seen by the group to be entirely a technical issue. The review process requires an understanding of the local geologic and hydrologic situations. In addition, outlined procedure in effect negates any advantage gained by delegating authority for approval to the Region in terms of reducing paper work and delays. The following points amplify the work group's reasons for contending that minor aquifer exemptions be handled entirely in the Region.

1. Aquifer exemptions relating to secondary recovery waterfloods or tertiary recovery injection projects are a straightforward technical decision involving mainly the showing that no one is utilizing the reservoir as a source of drinking water. In fact, the possibility that an oil producing reservoir would be supplying drinking water is essentially zero. The reservoir would contain sufficient quantities of oil or gas to make the water nearly impossible to treat.
2. A point worth noting is the fact that tertiary recovery processes are almost always preceded by waterfloods. Since waterfloods will require an exemption (for purposes of oil production) it does not seem necessary to require an operator to apply for a second exemption for purposes of tertiary recovery. The exception to the case of waterflood, preceding tertiary projects is sometimes found in cases of heavy oil recovery. In

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such cases, there may not even be primary production. The operator may go directly to a steam flood. The attached discussion of enhanced recovery techniques provides a good description of these methods.

3. Class III exemptions will be similar to those approved for purposes of enhanced oil recovery. The major technical action will be a determination that no one within 1/4 of a mile is utilizing the aquifer for a source of drinking water. The major concern will be to insure that the buffer zone and excursion control are adequate to insure that adjoining U.S. DW's will be protected.

4. In cases where a salt water disposal well is not injecting into a hydrocarbon producing zone, even more familiarity of local conditions will be needed to make the decision as to where the aquifer is too deep or too contaminated for future use.

5. The workgroup feels that the Regions' handling of aquifer exemptions should be similar to its procedure for determining how the Region is dealing with permit actions; namely as part of the yearly program evaluation.

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5: "A major problem with the proposed Headquarters concurrence is the major time delays that will occur. This will make it impossible for the Region to meet its MOA commitments to States. An example of this is the delegated State of Wyoming 1425 Program where the Region has a 15-day turnaround time. Several exemptions were sent to Headquarters in January for comment prior to the February hearing. No response was received by the Region until April 1, 1983. This time problems will also occur in the case where Class III operations need an exemption. Both New Mexico and Wyoming, for instance, will need approval within a 30-day time frame.

The numbers of minor exemptions will be a major source of slowdown in the approval procedure at Headquarters. At present, Region VIII is receiving at least 4 requests per month for exemptions for activities defined as U.S. DE's from the State of Wyoming for Class II purposes. Region VI anticipates at least as many actions. Class III actions also appear to be on the increase with 3 potential actions in Region VIII and 7 either ongoing or expected in Region VI. The workgroup feels that Class II exemptions in the other Regions will also be high. It's hard for us to imagine how DOD will be able to process several requests from each region concurrently and still meet the timeframes specified in the MOA's.

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